IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 22ND AUGUST 2006 / 31ST SRAVANA 1928

Bail Appl..No. 5148 of 2006

AGAINST THE ORDER CMP 5261/2006 IN
CC.55/2004 of J.M.F.C., KAYAMKULAM
CRIME NO. 98/2000 OF KAYAMKULAM POLICE STATION

.....

PETITIONER/3RD ACCUSED:

VISWASAM, S/O. DEVASAHAYAM,
AGED 49 YEARS, DOOR NO.61, MADHURAI PEECHI AMMAN
PADITHURAI ROAD, MADHURAI, TAMIL NADU.

BY ADV. SRI.DILEEP P.PILLAI

RESPONDENTS: COMPLAINANT & STATE:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22/08/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A. 5148/2006

DATED THIS THE 22ND DAY OF AUGUST, 2006

O R D E R

The petitioner is before this Court, as a non bailable warrant had been issued against him, by the Judicial Magistrate of First Class-I, Kayamkulam, as the petitioner is accused in C.C.No.55/2004, the offence alleged being under Sections 379 and 411 IPC read with Section 34 IPC, in crime No.98/2000 of Kayamkulam police station.

2. The learned Public Prosecutor submitted that the petitioner was released on bail, but he absconded. I had gone through the impugned order, passed by the Judicial Magistrate of First Class-I, Kayamkulam, on 10.8.2006. It is revealed that the petitioner was absent and steps against him were taken, under Sections 82 and 83 of Cr.P.C. The sureties were also proceeded against under the law. He could not be traced either at the local address given, or in Thirunelvely or Madurai. The

witnesses were present and the trial could not be proceeded with, because of the absence of the petitioner. Accused Nos.1 and 2 had already been absconding and their case is also transferred to L.P.No.14/2004. It was on these reasons, that the petitioner, who was arrested on 9.8.2006, was denied bail, prayed for. The petitioner is now before this Court, under Section 439 Cr.P.C.

3. After considering the materials that are placed before me, I am unable to accept the persuasive arguments of the learned counsel, praying for bail. Therefore, I agree with the conclusion arrived at by the learned Magistrate. The release of the petitioner, at this stage, will affect the continued trial and disposal of the case, which is pending from the year 2000 onwards.

4. In the above facts situation, I decline to grant bail to the petitioner. However, I direct the learned Magistrate to proceed with the trial of the petitioner, even if other accused are not available

before that Court, as per the law, as expeditiously as possible, in any case within three months from the date of receipt of this order.

Hand over the order.

The application is disposed of as above.

J.M.JAMES
JUDGE

mrcs